

REMARKS

In the Examiner's Action dated October 30, 2003, the Examiner indicated that the nucleotide sequences listed in Claims 4-11 and 13-20 are subject to restriction. Specifically, the Examiner referenced MPEP 2434, which states, in part, the following:

"In establishing the new policy, the Commissioner has partially waived the requirements of 37 CFR 1.141 and will permit a reasonable number of such nucleotide sequences to be claimed in a single application. Under this policy, in most cases, up to 10 independent and distinct nucleotide sequences will be examined in a single application without restriction."

The Examiner also stated the following:

"Claims 4-11 and 13-20 specifically claim nucleotide sequences which correspond to SEQ ID Nos. 1-9. Each of these sequences is considered to be structurally independent, because each of these sequences has a unique nucleotide sequence. Furthermore, a search of all the sequences claimed presents an undue burden on the Patent and Trademark Office to search and examine all of the recited sequences. In view of the foregoing, applicants are required to elect up to 1 claimed nucleotide sequence from the claims."

The above requirement for election set forth in the Action is hereby expressly traversed, and reconsideration and withdrawal of the requirement are respectfully requested. Although it is believed that the examination of all nine sequences in the claims could be effectively carried out in one application, Applicants have amended

the claims, without prejudice, to recite only four sequences, specifically Sequences 1-4. MPEP 2434 clearly states that up to 10 nucleotide sequences, in most cases, will be examined in one application without restriction. Four sequences is well under the maximum number of 10 suggested by MPEP 2434, and is believed to be "a reasonable number" of nucleotide sequences, as stated by MPEP 2434. Therefore it is respectfully submitted that the examination of four sequences does not present "an undue burden on the Patent and Trademark Office to search and examine all of the recited sequences."

In addition, MPEP 2434 states the following:

"In some exceptional cases, the complex nature of the claimed material may necessitate that the reasonable number of sequences to be selected be less than 10."

MPEP 2434 therefore clearly states that if the claimed sequences are complex, it may be necessary to reduce the maximum number to less than 10. However, it is respectfully submitted that Sequences 1-4 are each relatively short, relatively uncomplicated sequences. Since Sequences 1-4 are relatively short and relatively uncomplicated, it is respectfully submitted that the restriction to only one sequence is not necessary as defined by MPEP 2434.

However, in the event the election requirement is maintained, Applicants hereby **provisionally** elect Sequence 1 for prosecution in the present application. Presently, Claims 1-3 and 50-52 all appear to apply to Species 1. Currently, at least Claim 1 appears to be generic to each of Sequences 1-9.

AUTHORIZATION TO WITHDRAW FROM DEPOSIT ACCOUNT

The Commissioner is hereby authorized to charge the fee of \$86.00 for one independent claim in excess of three to Deposit Account No. 12-1758. In addition, if a fee is required **to avoid abandonment**, the Commissioner is hereby authorized to charge any fee, or credit any overpayment, to Deposit Account No. 12-1758. A duplicate copy of this authorization is enclosed.

Summary and Conclusion:

It is submitted that Applicants have provided a new and unique COVALENTLY CLOSED NUCLEIC ACID MOLECULES FOR IMMUNOSTIMULATION. It is submitted that the claims, as amended, are fully distinguishable from the prior art. Therefore, it is requested that a Notice of Allowance be issued at an early date.

If mailed, I, the person signing this certification below, hereby

certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the date indicated in the certification of mailing on the transmittal letter sent herewith, or if facsimile transmitted, I, the person signing this certification below, hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office on the date indicated in the certification of facsimile transmission on the transmittal letter which is being facsimile transmitted herewith.

Respectfully submitted,

A handwritten signature in black ink, reading "Nils H. Ljungman". The signature is written in a cursive, flowing style.

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